

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN

WILLIAM SIM SPENCER,

Plaintiff,

v

HON. PAUL L. MALONEY
U.S. DISTRICT COURT JUDGE

FILE NO. 1:18-cv-00229-PLM-RSK

BILL SCHUETTE, KRISTE KIBBEY
ETUE, ROBERT COONEY, KENNETH
SMITH and SARA SWANSON,

Defendants.

DEFENDANT SWANSON'S RESPONSE
TO PLAINTIFF'S VERIFIED MOTION
TO STRIKE THE DISPOSITIVE
MOTIONS

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**DEFENDANT SWANSON'S RESPONSE TO PLAINTIFF'S VERIFIED MOTION
TO STRIKE THE DISPOSITIVE MOTIONS**

Plaintiff's Verified Motion is a rambling recitation of complete nonsense. The point of his Motion to argue that Defendants did not "pick up the phone" and seek his concurrence regarding their Motions for Summary Judgment under L.R. 7.1. Defendants did however, seek Plaintiff's concurrence via email. Plaintiff believes he has somehow been prejudiced as he does not have sufficient time to response to Defendants' Motions. This is absurd and ignores the very purpose behind seeking concurrence prior to filing a motion.

The purpose of seeking concurrence is to narrow down issues for the motion or to determine whether a motion is even necessary. L.R. 7.1(d) states:

(d) Attempt to obtain concurrence - With respect to all motions, the moving party shall ascertain whether the motion will be opposed. In addition, in the case of all non dispositive motions, counsel or pro se parties involved in the dispute shall confer in a good-faith effort to resolve the dispute. All non dispositive motions shall be accompanied by a separately filed certificate setting forth in detail the efforts of the moving party to comply with the obligation created by this rule.

In this case, defense counsel sought Plaintiff's concurrence on August 14, 2018 via email. **Exhibit. 1.** Plaintiff obviously is not going to agree to dismiss his case. Defendants' Motions are dispositive in nature. Defendant Swanson fully complied with L.R. 7.1(d). In fact, Defendant went beyond the requirements of the rule and filed a certificate of concurrence which is only required with the filing of nondispositive motions. ECF No. 48. There is no prejudice to Plaintiff due to defense counsel's decision to seek his concurrence by email.

Instead of filing groundless motions to strike, Plaintiff should focus his attention on responding to the Motions for Summary Judgment. This is evidenced by the fact that, for some

reason, Plaintiff chose to argue the merits of Defendants' Motions for Summary Judgment in his current Motion to Strike.

Defendant Swanson respectfully requests that this Honorable Court deny Plaintiff's Motion.

Dated: October 24, 2018

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